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February 28, 2006

The Honorable Gale A. Norton
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Comments on Advanced Notice of Proposed Rulemaking for Alternative Energy on Outer Continental Shelf

Dear Secretary Norton:

On December 30, 2005, the Department's Minerals Management Service (MMS) published a notice in the Federal Register seeking comments on a "Proposed Rulemaking for Alternative Energy on the Outer Continental Shelf." As we have discussed, I believe that states must be full partners with the federal government in developing a comprehensive program for siting offshore renewable energy facilities and reviewing individual projects abutting state waters. Based on Massachusetts' considerable recent experience with proposed off-shore alternative energy facilities, I would like to offer my input as MMS moves forward with the rulemaking process.

When President George W. Bush signed the Energy Policy Act of 2005 into law, I was pleased that the Department of the Interior would now be the lead agency in developing these regulations. Interior has a strong record of carefully balancing the use of our natural resources with the protection of our most precious national parks, wildlife reservations and marine sanctuaries. Certainly, treasures such as the Grand Canyon and Chesapeake Bay are not suitable for commercial development, and Nantucket Sound is worthy of similar protection.

Let me reiterate that I am a strong supporter of developing renewable energy sources that will lessen our dependence on foreign oil, and believe there is much promise for wind projects off the Massachusetts coast. However, MMS should not move forward in its assessment of Cape Wind until strict guidelines applicable to all offshore alternative energy facilities are established. It is important to reiterate that existing regulations apply only to oil and gas platforms, whose footprint is miniscule when compared to the unprecedented use of 24 square miles of ocean real estate.

Reviewing offshore alternative energy projects under existing regulations would undermine the goal of developing a single, comprehensive process for permitting, and therefore, would continue to deny states, such as Massachusetts, the opportunity for meaningful participation in the siting process.

As you move forward, MMS should be guided by several existing processes that strike an appropriate balance between the federal government and input from state and local governments. One such model is the Deep Water Port Act – under which a Governor may approve, disapprove, or set conditions for approval of offshore energy projects. A Governor's ability to reject or suggest amendments to a proposal is, as you know, limited to the application of statutes and regulations on the books in his or her state. Similarly, the Coastal Zone Management Act of 1972 requires that projects outside of state waters be consistent with the enforceable policies of the state CZM program. Finally, the Outer Continental Shelf Lands Act (OCSLA) establishes that the law of each adjacent state – to the extent not inconsistent with federal law – is the law of the United States for the portion of the Outer Continental Shelf that would be within the state if the state's boundaries were extended to the outer margin of the shelf. In 2003, I appointed an Ocean Management Task force to study the effects of development on state waters and recommend legislation that would clearly express the interests of the Commonwealth with regard to offshore development. Other coastal states have undertaken similar efforts. Any new MMS regulation in this area must protect the right of coastal states and communities to participate meaningfully in the siting and permitting of alternative energy projects in adjacent waters.

The questions specifically posed in the Federal Register notice raise several other important issues. Regarding the issue of siting, MMS should first establish a process that identifies high value resource areas, like Nantucket Sound, that are to be set aside and off limits to development. The Department of the Interior is uniquely qualified to carry out this important task, because it understands the need to balance protection of our national parks and marine sanctuaries with the economic imperative of a stable supply of energy. This balance and expertise is missing from the current Army Corp of Engineers process. As we have seen in Massachusetts, the failure to have a strong state-federal partnership can be problematic for all parties.

Potential sites for alternative energy projects should be evaluated, in advance of any formal proposal, on the following criteria: transportation safety, search and rescues concerns, effect on fisheries and maritime industries, homeland defense, marine life and avian migration, seascape views, and the effects on a state's environment or regional economy – especially in tourism dependent regions.

Once suitable sites are determined, there are questions that need to be addressed in reviewing a specific proposal, including:

- Is there a demonstrative need for a new energy source?
- What are the costs of the specific proposal, if developed, to the state and its citizens?
- How much does a proposal alleviate a region's projected energy demand?
- Has the environmental impact analysis adequately accounted for the size of the project's footprint?
- Are there more viable/cost-effective alternatives? Are there other forms of energy generation or other locations that should be considered?
- What are the impacts on the region's fishing and transportation industries?

Finally, as MMS moves along with the drafting of regulations, I would recommend a more robust outreach and consultation process. Efforts should include:

- Consultation with Governors of coastal states, their representatives and interested third-party groups about the development of regulations regarding siting, development and leasing/licensing.
- Public education and outreach about the need to develop an appropriate approval process for offshore wind energy.
- Linking with ocean policy groups and coordinating with other ocean planning efforts.
- Establishment of an environmental review process for offshore wind energy development that works within the framework of existing federal statutes.

I hope these comments prove valuable to your rulemaking and assist in the crafting of regulations that protect the environment while allowing for the responsible use of our natural resources. It is critical that we do not place expediency over a careful, thoughtful drafting process. As always, my office and relevant state agencies are available to help in any way you may need. I look forward to continuing our dialogue on this important issue.

Sincerely,



Mitt Romney

cc: Senator Edward Kennedy
Senator John Kerry
Representative Edward Markey
Representative Michael Capuano
Representative William Delahunt
Representative Barney Frank
Representative Stephen Lynch
Representative James McGovern
Representative Martin Meehan
Representative Richard Neal
Representative John Olver
Representative John Tierney